

**REMARKS**

Claims 16-18, 23-24, 26-35, 38-40, 42, and 44-56 and 57-60 are pending in the application. By this Amendment, Claims 36-37 are canceled, and Claim 35 is amended.

Claim 35 is amended to incorporate the subject matter of Claim 36.

Applicant gratefully acknowledges the indication in the Office Action that Claim 31 contains allowable subject matter.

In the Office Action, the Examiner rejects Claims 16-18, 23-24, 26-28, 30, 32, 34-37, 45-47 and 49-60 under 35 U.S.C. § 102(e) over U.S. Patent No. 5,758,257 to Herz, *et al.* (Herz). This rejection is respectfully traversed.

With respect to Claims 16, 27 and 58, Herz fails to disclose or suggest means for determining a psychological profile of the user based on the received answers, means for assigning a value to each of the category labels based on the determined psychological profile, and means for forming the local information label based on the values assigned to each of the category labels, as recited in Claim 16, and similar features recited in Claims 27 and 58. Herz at Column 13, Lines 12-49 (C13/L12-49) discloses generating a customer profile based on answers to a questionnaire. Herz also discloses at C17/L57-C18/L5 that a customer can have different "moods", that can be tied to different times of day. These "moods" are simply different profiles associated with the same customer. However, Herz says nothing about assigning values to category labels based on a determined psychological profile. The Examiner has not indicated category labels in Herz, much less assigning values to them, based for example on a determined psychological profile of a user. Accordingly, Herz fails to disclose or suggest means for assigning a value to each of the

category labels based on the determined psychological profile, as recited in Claim 16, and similar features recited in Claims 27 and 58.

With respect to Claims 23, 30, 49 and 53, Herz at C25/L37-41 discloses "the customer's set top multimedia terminals maintain a record of the video programs that are actually watched by the customer for a period of time (say, 10 minutes) sufficient to establish that the customer 'liked' that program." However, this fails to disclose a) means for storing *an identification code of the user* for each program presented to the user, and likewise fails to disclose b) means for storing *the at least one category label value* for programs presented to the user, as recited in Claim 23, and similar features recited in Claims 30, 49 and 53. Further, this fails to disclose means for inputting a signal which indicates the user's level of enjoyment of each program presented to the user, and means for storing the at least one category label value for programs presented to the user and the user's indicated levels of enjoyment of the programs to compile a viewing history for the user, as recited in Claim 23, and similar features in Claim 49.

With respect to Claims 34 and 45, Herz at C11/L45-55 discloses different ratings, for example "amount and degree of sex, violence, and profanity". However, this section of Herz apparently fails to disclose or suggest scanning the program information label to ascertain the *instantaneous* content level of the program over the duration of the program, as recited in Claim 34. Herz at C47/L53-67 discloses targeting advertising to a viewer based on the user's profile or agreement matrix. However, Herz fails to disclose or suggest determining one of a plurality of advertisements to be run during said program *based upon*

*the instantaneous content level of the program*, as recited in Claim 34, and similar features recited in Claim 45.

With respect to Claim 35, Herz at C49/L7-27 discloses combining customer profiles of two or more customers so that the video programming that lies strictly within the overlap area of the customer profiles will be preferred. See for example C49/L13-16. This fails to disclose or suggest means for *averaging* the values associated with the category labels of the first and second local information labels to obtain a value associated with the category label of the combination local information label, as recited in Claim 35.

For at least the above reasons, Applicant respectfully submits that Herz fails to disclose or suggest all of the features recited in Claims 16-18, 23-24, 26-28, 30, 32, 34-35, 45-47 and 49-60

In the Office Action, the Examiner rejects Claims 33, 44 and 48 under 35 U.S.C. § 103(a) over Herz. This rejection is respectfully traversed.

With respect to Claims 33, 44 and 48, Applicant respectfully traverses the Examiner's Official Notice that the use of a voice recognition system would have been a well known means of identifying a viewer to a television system, and requests the Examiner to provide a reference supporting this assertion. See MPEP § 2144.03.

In the Office Action, the Examiner rejects Claim 38 under 35 U.S.C. § 103(a) over Herz in view of U.S. Patent No. 5,710,815 to Ming (Ming). This rejection is respectfully traversed.

Ming discloses that category codes can be inserted as often as every fourth frame. See Ming at C8/L19-20. However, Ming fails to disclose or suggest receiving information

as frames of a signal and providing for prevention of access to a part of *each frame* which does not have information content which compares favorably with the local information label, as recited in Claim 38. Herz fails to overcome this deficiency of Ming.

For at least the above reasons, Applicant respectfully submits that the asserted combination of Herz and Ming fails to disclose or suggest Claim 38.

Applicant respectfully submits that the application is in condition for allowance. Favorable consideration on the merits and prompt allowance are respectfully requested. In the event any questions arise regarding this communication or the application in general, the Examiner is invited to contact Applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,

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**Attachment to Amendment dated 26 March 2003**

**Marked-up Claims**

35. An apparatus for creating a combination local information label associated with a first user and a second user, the apparatus comprising:

means for receiving first and second local information labels associated respectively with the first and second users; and

means for creating the combination local information label based on the first and second local information labels,

wherein the first, second, and combination local information labels each comprise at least one category label having an associated value which identifies a level of program content, and the apparatus further comprises means for averaging the values associated with the category labels of the first and second local information labels to obtain a value associated with the category label of the combination local information label.